



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2877

Introduced 1/20/2006, by Sen. Martin A. Sandoval

SYNOPSIS AS INTRODUCED:

New Act

Creates the Displaced Building Service Workers Protection Act. Provides protections to building service employees who are regularly assigned to a covered building on a full or part-time basis for at least 25 working days immediately preceding a transition in employment and who perform work in connection with the care or maintenance of an existing building. Provides that a successor employer shall retain for a transition employment period of 25 working days at the affected site the building service employees of the terminated building service contractor and its subcontractors, or other covered employer, employed at the site covered by the terminated building service contract or owned or operated by the former covered employer. Provides that, at the end of the 25 working day transition period, the successor employer shall perform written performance evaluations and offer continued employment to all covered building service employees who receive satisfactory ratings. Excludes from coverage employees who earn more than \$25 per hour, work less than 6 hours per week, or serve in a managerial, supervisory, or confidential capacity. Sets forth exemptions. Provides that the contractor may require employees to submit to a criminal background check. Effective immediately.

LRB094 17153 LCT 52441 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Displaced Building Service Workers Protection Act.

6 Section 5. Definitions. In this Act:

7 "Building service" means work performed in connection with
8 the care or maintenance of an existing building and includes,
9 but is not limited to, work performed by a watchman, security
10 officer, door staff, building cleaner, maintenance technician,
11 handyman, janitor, elevator operator, window cleaner, building
12 engineer and groundskeeper.

13 "Building service contract" means a contract let to any
14 covered employer for the furnishing of building services and
15 includes any subcontract for such services.

16 "Building service contractor" means any person who enters
17 into a building service contract.

18 "Building service employee" means any person employed as a
19 building service employee by a covered employer who has been
20 regularly assigned to a building on a full or part-time basis
21 for at least 25 working days immediately preceding any
22 transition in employment subject to this Section except for (i)
23 persons who are managerial, supervisory, or confidential
24 employees, provided that this exemption shall not apply to
25 building engineers for existing properties, (ii) persons
26 earning in excess of \$25 per hour from a covered employer, and
27 (iii) persons regularly scheduled to work fewer than 6 hours
28 per week at a building.

29 "State of Illinois" means any city, township,
30 administration, department, division, bureau, board or
31 commission, or a corporation, institution, or agency of
32 government, the expenses of which are paid in whole or in part

1 from the State treasury.

2 "Covered employer" means any person who owns or manages
3 real property, either on its own behalf or for another person,
4 or any person who contracts or subcontracts with an owner or
5 manager of real property within the State of Illinois for real
6 estate, including, but not limited to, housing cooperatives,
7 condominium associations, building managing agents, and any
8 building service contractor provided, however, that the
9 requirements of this Act shall not apply to (i) residential
10 buildings under 50 units, (ii) commercial office,
11 institutional, or retail buildings of less than 75,000 square
12 feet or retail stores or distribution centers, or manufacturing
13 and assembly or warehousing and logistic facilities, or
14 churches, synagogues, mosques, or places of worship, or
15 elementary or secondary schools, (iii) any building that is
16 owned or operated by a hospital or hospital affiliate as
17 defined in the Hospital Licensing Act, (iv) any building that
18 is owned or operated by a public utility, public utility
19 affiliate, telecommunications carrier, or its affiliate as
20 defined in the Public Utilities Act or independent electric
21 generators, or (v) any administrative building owned and
22 operated by a manufacturer.

23 "Person" means any individual, proprietorship,
24 partnership, joint venture, corporation, limited liability
25 company, trust, association, or other entity that may employ
26 persons or enter into service contracts.

27 "Successor employer" means a covered employer that (i) has
28 been awarded a building service contract to provide, in whole
29 or in part, building services that are substantially similar to
30 those provided under a service contract that has recently been
31 terminated, or (ii) has purchased or acquired control of
32 property in which building service employees were employed.

33 Section 10. Protection for building service employees.

34 (a) No less than 15 calendar days before terminating any
35 building service contract, any covered employer shall request

1 the terminated contractor to provide the successor employer and
2 any collective bargaining representative of any of the affected
3 employees a full and accurate list containing the name,
4 address, date of hire, and employment occupation
5 classification of each building service employee employed on
6 the notice date at the site or sites covered by the terminated
7 contract.

8 (b) No less than 15 calendar days before transferring a
9 controlling interest in any covered building in which building
10 service employees are employed, any covered employer shall
11 provide to the successor employer and any collective bargaining
12 representative of any of the affected employees a full and
13 accurate list containing the name, address, date of hire, and
14 employment occupation classification of each building service
15 employee currently employed at the site or sites covered by the
16 transfer of controlling interest.

17 (c) Any covered employer shall provide to the successor
18 employer and any collective bargaining representative of any of
19 the affected employees a full and accurate list containing the
20 name, address, date of hire, and employment occupation
21 classification of each building service employee currently
22 employed at the site or sites covered by the terminated
23 building service contract no more than 7 calendar days after
24 notice that its building service contract has been terminated.

25 (d) When providing the notice required under this Section,
26 each covered employer shall ensure that a notice to building
27 service employees is posted setting forth the rights provided
28 under this Section and which includes a copy of the list
29 provided under the proceeding Sections, and that such notice is
30 also provided to the employees' collective bargaining
31 representative, if any. The notice and list shall be posted in
32 the same location and manner that other statutorily required
33 notices to employees are posted at the affected site or sites.

34 (e) A successor employer shall retain for a transition
35 employment period of 25 working days at the affected site or
36 sites those building service employees of the terminated

1 building service contractor and its subcontractors, or other
2 covered employer, employed at the site or sites covered by the
3 terminated building service contract or owned or operated by
4 the former covered employer.

5 (f) If at any time the successor employer determines that
6 fewer building service employees are required to perform
7 building services at the affected building than had been
8 performing such services under the former employer, the
9 successor employer shall retain the predecessor building
10 service employees by seniority within job classification;
11 provided that during a transition period of 25 working days,
12 the successor employer shall maintain a preferential hiring
13 list of those building service employees not retained at the
14 building who shall be given a right of first refusal to any
15 jobs within their classification that becomes available during
16 that period.

17 (g) Except as provided in subsection (f), during such
18 period of 25 working days, the successor contractor's
19 management of the business and the direction of its personnel,
20 including the right to hire, discipline and discharge employees
21 for just cause is vested exclusively in the contractor. The
22 contractor may require employees to submit to a criminal
23 background check by the Illinois State Police and the Federal
24 Bureau of Investigation.

25 (h) At the end of the transition period of 25 working days,
26 the successor employer shall use his or her own existing
27 practices and forms to perform a written performance evaluation
28 for each employee retained pursuant to this Section. If the
29 employee's performance during such period of 25 working days is
30 satisfactory, the successor contractor shall offer the
31 employee continued employment under the terms and conditions
32 established by the successor employer or as required by law.

33 Section 15. Violation.

34 (a) A building service employee who has been discharged or
35 not retained in violation of this Act may bring an action in

1 court against a successor contractor and covered employer for
2 violation of any obligation imposed pursuant to this Act.

3 (b) The court shall have the authority to order injunctive
4 relief to prevent or remedy a violation of any obligation
5 imposed pursuant to this Act.

6 (c) If the court finds that by reason of a violation of any
7 obligation imposed pursuant to subsection (b), a building
8 service employee has been discharged in violation of this
9 Section, it shall award:

10 (1) Back pay for each day during which the violation
11 continues, which shall be calculated at a rate of
12 compensation not less than the higher of (i) the average
13 regular rate of pay received by the employee during the
14 last 3 years of the employee's employment in the same
15 occupation classification; or (ii) the final regular rate
16 received by the employee.

17 (2) Costs of benefits the successor employer would have
18 incurred for the employee under the successor contractor's
19 or employer's benefit plans.

20 (3) The building service employee's reasonable
21 attorney's fees and costs.

22 (d) In any such action, the court shall have the authority
23 to order the terminated contractor or former employer to
24 provide the successor employer with the information required
25 pursuant to subsection (c) of Section 10.

26 Section 20. Exemptions. The provisions of this Act do not
27 apply:

28 (1) To any successor employer that, on or before, the
29 effective date of the transfer of control from a
30 predecessor covered employer to the successor employer to
31 the commencement of services by a successor building
32 service contractor, agrees to assume, or to be bound by,
33 the collective bargaining agreement of the predecessor
34 covered building service employees, provided that the
35 collective bargaining agreement provides terms and

1 conditions for the discharge or laying off of employees.

2 (2) Where there is no existing collective bargaining
3 agreement as described in subdivision (1), to any successor
4 employer that agrees, on or before the effective date of
5 the transfer of control from a predecessor covered employer
6 to the successor employer or the commencement of services
7 by a successor building service contractor, to enter into a
8 new collective bargaining agreement covering its building
9 service employees, provided that the collective bargaining
10 agreement provides terms and conditions for the discharged
11 or laying off of employees.

12 (3) To any successor employer whose building service
13 employees will be accredited to a bargaining unit with a
14 pre-existing collective bargaining agreement, provided
15 that the collective bargaining agreement provides terms
16 and conditions for the discharged or laying off of
17 employees.

18 (4) To any covered employer that obtains a written
19 commitment from a successor employer that the successor
20 employer's building service employees will be covered by a
21 collective bargaining agreement falling within subdivision
22 (1), (2), or (3).

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.